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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,549	06/25/2001	Irit Loy	LOY=4	5844
1444	7590	11/18/2004	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			LEROUX, ETIENNE PIERRE	
		ART UNIT	PAPER NUMBER	
		2161		

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/887,549	LOY ET AL.	
	Examiner	Art Unit	
	Etienne P LeRoux	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 July 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3 and 5-13 is/are pending in the application.
 4a) Of the above claim(s) 2,4 and 14-39 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,3 and 5-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 25 June 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Finality Vacated

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Status of Claims

Claims 1, 3 and 5-13 are pending. Claims 1, 3 and 5-13 are rejected. Claims 2 and 4 are canceled. Claims 14-39 are withdrawn.

35 U.S.C. 101, Statutory Basis for Double Patenting

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1, 3 and 5-13 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 8 of copending Application No. 09/887,520. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

The following is a limitation by limitation comparison of instant application with regards to copending Application No. 09/887,520. The limitations shown bolded and italicized are from claim 8 of Application No. 09/887,520.

In a cluster of computing nodes having shared access to one or more volumes of data storage using a parallel file system, a method for managing the data storage comprising:

In a cluster of computing nodes having shared access to one or more volumes of data storage using a parallel file system, a method for managing the data storage comprising:

- creating a session of a data management (DM) application on a session node selected from among the nodes in the cluster using a data management application programming interface (DMAPI) of the parallel file system
- *initiating a session of a data management (DM) application on a first one of the nodes in accordance with a data management application programming interface (DMAPI) of the parallel file system*
- receiving a request submitted to the parallel file system by a user application on a source node in the cluster to perform an operation on a file in one of the volumes of data storage
- *receiving a request submitted by the user application running on the second node to the parallel file system on the second node to perform a file operation on a file in one of the volumes of data storage, and processing the request using the DMAPI*
- sending a notification of a DM event to the session node responsive to the request
- *sending a DM event message from the second node to the first node responsive to the request, for processing by the data management application on the first node*
- obtaining a data management access right from the DMAPI by processing the event at the session node
- *receiving the event message at the first node, obtaining a data management access right from a physical file system (PFS) at the first node responsive to the event message*

- performing the operation on the file using the access right
- *processing the event message using the access right*

Claims 3 and 5-13 are rejected for being dependent on a rejected base claim.

Response to Arguments

Applicant's arguments, filed July, 16, 2004, with respect to the rejection(s) of claim(s) 1, 3 and 5-13 under 35 U.S.C. 103 (a) as being unpatentable over US Pat No 5,897,638 issued to Lasser et al in view of technical paper titled The Data Management Applications Programming Interface by Peter Lawthers have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, above new ground(s) of rejection is made under the judicially created doctrine of double patenting over claim 8 of recently allowed Application No. 09/887,520 filed June 25, 2001, since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Patent related correspondence can be forwarded via the following FAX number (703)

872-9306

Etienne LeRoux

October 14, 2004



UYEN LE
PRIMARY EXAMINER